



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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Seattle, WA 98101-3140

OFFICE OF
MANAGEMENT
PROGRAMS

April XX, 2016

Fran Wilshusen and Dietrich Schmitt
Northwest Indian Fisheries Commission
6730 Martin Way E
Olympia, WA 98516

Dear Ms. Wilshusen and Mr. Schmitt:

I am following up on concerns regarding the Environmental Protection Agency (EPA) 2010-2016 Puget Sound Tribal Lead Organization grant to the Northwest Indian Fisheries Commission (NWIFC), subaward to the Swinomish Tribe for public education and outreach.

In conversations over the past two weeks, EPA Project Officer Lisa Chang and I, have shared our concerns with you that some of the work on the Swinomish sub-award related to the "whatsupstream" public education project was not in compliance with the terms and conditions of the cooperative agreement (PA-00J32201). Specifically, EPA became aware of advertising on billboards, transit buses, KUOW Radio and social media that did not include the required recognition of EPA funding and disclaimer. It also appears that the Swinomish Tribe has not reported their EPA funding to the Federal Subaward Recipient System (FSRS.gov), also required by the terms and conditions of this grant.

A number of external parties have raised questions as to the legality and appropriateness of the activities funded by this subaward, even questioning whether the Tribe's activities constitute lobbying. EPA takes these concerns very seriously and is committed to following up as expeditiously as possible based on review of the facts. Your thorough analysis as grantor is an important element in verifying the allowability of costs or conversely identifying activities for which drawdowns are not appropriate. As the recipient, NWIFC agreed to "Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);" and "monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;" Administrative Condition 16.a(2) and (7). We request that you conduct a review immediately to ensure compliance with all the grants terms and conditions that flow down to the Swinomish subaward.

We propose a meeting with you no later than Wednesday, April 27, to review the issues and assess the sub-award that funded the media expenditures. I will call you immediately to schedule a meeting with you and your staff to discuss the results of your review in detail.

In the interim, we are requesting that all “whatsupstream” advertising in all media cease immediately and no EPA funds be drawn down to pay for costs associated with this sub-award until we have had the chance to discuss the results of the review and assessment.

We remind you that 40 CFR§31.43 provides that if a grantee fails to comply with any term and condition, whether stated in a Federal statute, regulation, assurance, award document or elsewhere, the awarding agency may initiate one or more of the following enforcement actions:

- Disallowing all or part of the costs of the activity or action not in compliance. To date,
Ex. 5 - Deliberative Process
- Withholding further awards;
- Taking other remedies that may be legally available in accordance with 40 CFR§31.13.

EPA remains committed to working with NWIFC to resolve these concerns . If you have any questions, please do not hesitate to contact me at 206-553-1148 or murchie.peter@epa.gov.

Sincerely,

Peter Murchie, Manager
Puget Sound and NEP Programs

cc: **Limit our internal cc's.**
Lisa Chang
Paula VanHaagen
Yvette Downs
Garth Wright
Larry Wasserman (?)